

REMARKS

Claims 1-3 and 7 were rejected under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent No. 6,577,102, and provisionally rejected in view of copending application no. 10/453,312. It is believed with the enclosed Terminal Disclaimer, the rejection on the grounds of obviousness-type double patenting can be withdrawn. A check covering the fee for the filing of the Terminal Disclaimer is enclosed.

Claims 1-4, 6-7, 9-11 and 13 were rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al. Claim 1 recites "a second power supply for providing power to at least one non-energy delivery circuit of the battery pack and the external defibrillator." The Examiner indicated that in Benvegar et al. the high voltage charger circuit 14 contains a large capacitor that is charged by the battery pack 12 to arm the defibrillator, and concluded that the capacitor would thus be considered a second power supply provided to power at least one non-energy delivery circuit of the battery pack and the external defibrillator. Benvegar et al. teaches at column 3, lines 30-35, that the large charge stored on this capacitor is used to shock the patient. It is respectfully submitted that since the capacitor of the charger circuit 14 of Benvegar et al. is used to shock the patient, the capacitor is used to power a portion of the energy delivery circuit, and is not part of a non-energy delivery circuit.

The Examiner also argued that the battery pack 12 has a plurality of battery cells 30, so that at least one of the plurality of battery cells could serve as the second power

supply. However, Claim 1 also recites "the second power supply being electrically isolated from the first power supply." Since the battery cells 30 are connected in series in the battery pack 12, the battery cells 30 are not electrically isolated from the battery pack, and thus do not correspond to a second power supply electrically isolated from the first power supply, as claimed.

Adams et al. was cited as disclosing a dual battery system for a defibrillator using two "separate" battery power sources. However, Adams et al. teaches at column 3, lines 62-67, and in Claim 1, that energy from the output power source battery (second battery 36) can be used to power the monitoring circuitry connected to and primarily powered by the first battery 32, in the event that the first battery can no longer provide electrical power to the monitoring circuitry. Over a period of time, this can deplete the main output power source battery. Adams et al. does not teach, disclose or suggest a second power supply that is electrically isolated from a first power supply, as is claimed. It is therefore respectfully submitted that Claims 1-4, 6-7, 9-11 and 13 as amended are novel and inventive over Benvegar et al. and Adams et al., taken either individually or together, and that the rejection of Claims 1-4, 6-7, 9-11 and 13 on the grounds of obviousness from Benvegar et al. in view of Adams et al. should be withdrawn.

Claim 5 was rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al., and further in view of Kurle et al., which was cited as disclosing a smart battery that self-monitors and indicates use conditions. Claim 5 depends from Claim 1, and it is respectfully submitted that Benvegar et al., Adams et al., and Kurle et al., whether taken individually or in combination, do not teach, disclose

or suggest a second power supply that is electrically isolated from a first power supply, as is recited in Claim 1. It is therefore respectfully submitted that Claim 5 is also novel and inventive over Benvegar et al., Adams et al., and Kurle et al., and that the rejection of Claim 5 on the grounds of obviousness from Benvegar et al. in view of Adams et al. , and further in view of Kurle et al. should be withdrawn.

Claim 8 was rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al., and further in view of Olson et al., which was cited as disclosing self-testing of an automated external defibrillator during which battery cells 17 of a battery pack are checked. Claim 8 depends from Claim 1. It is respectfully submitted that Benvegar et al., Adams et al., and Olson et al., whether taken individually or in combination, do not teach, disclose or suggest a second power supply that is electrically isolated from a first power supply, as is recited in Claim 1. It is therefore respectfully submitted that Claim 8 is also novel and inventive over Benvegar et al., Adams et al., and Olson et al., and that the rejection of Claim 8 on the grounds of obviousness from Benvegar et al. in view of Adams et al. and Olson et al. should be withdrawn.

In light of the foregoing amendments and remarks, it is respectfully submitted that the application should now be in condition for allowance, and an early favorable action in this regard is respectfully requested.

Respectfully submitted,

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